Criminal Procedure mid-term

Fall 1998

This exam counts 25% of your grade. The honor code applies. Do not discuss the exam with anyone who hasn't taken it. Put your exam # (last 4 digits of SS #) on the exam and the blue book. Also put your section: L for large, S for small.

Statement of Tom Thomas

My name is Tom Thomas and I am a state trooper. On July 5, I was on drug interdiction patrol on I-75. I pulled over speeding cars that I thought might be carrying drugs. My attention was drawn to a 1998 black BMW with tinted windows, traveling 75 mph, 10 mph in excess of the speed limit. I pulled the car over and asked the driver for his license. He produced what appeared to be a valid license in the name of Walt White. He also produced registration and insurance papers on the car in the name of Walt White. I called the license and car registration in but the computer was down. It took about thirty minutes before the computer came back up; no negative information on Walt White or the car.

I gave the registration and license back to White and asked him to step out of the car. He did so and I asked him for permission to search his car. He told me I could. I didn't find anything in the front seat area. I started to open a brown paper bag in the back seat when he said, "Wait, don't open that," and grabbed my arm. His movement revealed a pistol in a shoulder holster. I took the gun from him and opened the bag. Inside were clothes and an ounce of powder cocaine in a plastic envelope. I arrested White for possession of cocaine. I did not arrest him for carrying a concealed weapon because he produced a permit allowing him to carry a concealed firearm. White told me he had just bought the cocaine from a man named "Jake" at a house on Short St. in Metro City.

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Statement of Karl Krupke

I am a narcotics officer with the Metro Police Department. The state police arrested a guy named Walt White for possession of cocaine on July 5. White said he bought the cocaine from a man named "Jake" on July 5. The state police turned the case over to us on July 6. We decided to make a deal with White -- if he could make a controlled buy from "Jake" we would drop the charges against him. He agreed.

On July 8, White made a controlled buy from "Jake" at a house located at 242 E. Short St. I taped a small transmitting device to White's chest and gave him $200 in marked bills. My partner and I waited in a van outside to monitor the transmitting device while White went in to make the buy. We heard White gain entrance and engage in small talk with a second person. The second person said, "What do you want?," and White said, "You know." The second person said, "$200, you got it?," White answered, "Yes." White emerged a few minutes later with an ounce of cocaine.

On October 15, I applied for a search warrant for 242 E. Short St. My affidavit reads:

An informant whom I believe to be reliable recently purchased cocaine from a man named Jake at a residence located at 242 E. Short St. in Metro City. I have confirmed the accuracy of this information by personal observation and by means that I cannot reveal without jeopardizing the safety of said informant.

On October 15, the judge issued a search warrant to "search the premises known as 242 E. Short St. for cocaine, and cocaine paraphernalia within 10 days."

On October 15, my partner and I went to 242 E. Short St. It was 3 pm. We knocked, but no one answered. We found
an open window and entered the house. I searched the house throughly but found no cocaine or paraphernalia. I found a set of car keys in plain view on a counter top. I thought the keys might fit a Ford Econoline van parked in the drive.

I used the keys to open the van. As I was looking through it a man came running up. He said, "What the hell are you doing," and tried to pull me out of the van. My partner and I wrestled him to the ground and I arrested him for resisting an officer. (ASSUME THIS IS A LEGAL ARREST).

I searched him thoroughly and found a driver's license in his wallet identifying him as Jake Brown. I searched the van thoroughly. Inside the van I found a large quantity of cocaine, scales and cutting agents.

My partner took Brown to the station while I did a protective sweep of the residence. I found a number of credit cards, later determined to be stolen, in an envelope taped to the underside of a dresser. The credit cards were in a number of different names.

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Brown is charged with trafficking in cocaine and receiving stolen property, to wit the credit cards.

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Discuss the Fourth Amendment aspects of this fact situation. 1) What if White had moved for suppression of the cocaine found in his car? 2) What result if Brown moves to suppress the cocaine and paraphernalia found in the van and the credit cards found under the dresser?